

FIRST REGULAR SESSION

HOUSE BILL NO. 421

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES GRAHAM, FARNEN, DEMPSEY, OSTMANN, GAMBARO,
PORTWOOD, McKENNA (Co-sponsors), LEVIN, BURCHAM, WAGNER, REINHART, ROBIRDS,
HUNTER, VILLA AND KELLY (27).

Read 1st time January 17, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

1100L.011

AN ACT

To repeal section 537.053, RSMo 2000, relating to consumption of intoxicating beverage as proximate cause of injury in tort actions, and to enact in lieu thereof one new section relating to the same subject.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 537.053, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 537.053, to read as follows:

537.053. 1. The general assembly finds and declares that the consumption of intoxicating beverages, rather than the sale or serving or furnishing of such beverages, is the proximate cause of any injury, including death and property damage, inflicted by an intoxicated person upon himself or herself or upon another person.

2. Notwithstanding any other law to the contrary, no person licensed to sell intoxicating liquor by the drink for consumption on the premises, or any agent or employee of such licensee, who lawfully sells or serves intoxicating beverages to a person who may lawfully purchase such intoxicating beverages, shall be liable to such person or to any other person or to the estate, or survivors of either, for any injury suffered off the licensed premises, including wrongful death and property damage, because of the intoxication of the person to whom the intoxicating beverages were sold or served.

3. Notwithstanding any other law to the contrary, no social host who serves or furnishes any intoxicating beverage to a person who may lawfully consume such intoxicating beverage shall be liable to such person or to any other person or to the estate,

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

15 or survivors of either, for any injury suffered off such social host's premises, including
16 wrongful death and property damage, because of the intoxication of the person to whom
17 the intoxicating beverages were served or furnished. No social host who owns, leases or
18 otherwise lawfully occupies a premises on which, in his or her absence and without his or
19 her consent, intoxicating beverages are consumed by a person who may lawfully consume
20 such intoxicating beverage shall be liable to such person or to any other person or to the
21 estate, or survivors of either, for any injury suffered off the premises, including wrongful
22 death and property damage, because of the intoxication of the person who consumed the
23 intoxicating beverages.

2 [537.053. 1. Since the repeal of the Missouri Dram Shop Act in 1934 (Laws
3 of 1933-34, extra session, page 77), it has been and continues to be the policy of this
4 state to follow the common law of England, as declared in section 1.010, RSMo, to
5 prohibit dram shop liability and to follow the common law rule that furnishing
6 alcoholic beverages is not the proximate cause of injuries inflicted by intoxicated
7 persons.

8 2. The legislature hereby declares that this section shall be interpreted so that
9 the holdings in cases such as Carver v. Schafer, 647 S.W.2d 570 (Mo. App. 1983);
10 Sampson v. W. F. Enterprises, Inc., 611 S.W.2d 333 (Mo. App. 1980); and Nesbitt
11 v. Westport Square, Ltd., 624 S.W.2d 519 (Mo. App. 1981) be abrogated in favor of
12 prior judicial interpretation finding the consumption of alcoholic beverages, rather
13 than the furnishing of alcoholic beverages, to be the proximate cause of injuries
14 inflicted upon another by an intoxicated person.

15 3. Notwithstanding subsections 1 and 2 of this section, a cause of action may
16 be brought by or on behalf of any person who has suffered personal injury or death
17 against any person licensed to sell intoxicating liquor by the drink for consumption
18 on the premises who, pursuant to section 311.310, RSMo, has been convicted, or has
19 received a suspended imposition of the sentence arising from the conviction, of the
20 sale of intoxicating liquor to a person under the age of twenty-one years or an
21 obviously intoxicated person if the sale of such intoxicating liquor is the proximate
cause of the personal injury or death sustained by such person.]